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Planning Commission Date: April 12, 2006

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report Prepared by: Cindy Hom

Public Hearing: Yes: X No:

Notices Mailed On: 3/31/06

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TITLE: MINOR TENTATIVE MAP NO. MI2005-4

Proposal: A request for a two (2)-lot subdivision on a .38-acre residential site.

Location: 387 Rudyard Drive.

RECOMMENDATION: Approve with conditions.

Applicant/Owner: Hai Tran, 387 Rudyard Drive, Milpitas, CA 95035

Previous Action(s): S-Zone Approval

Environmental Info: Categorically exempt pursuant to Class 15, Section 15315 ("Minor Land Divisions") of the California Environmental Quality Act Guidelines

General Plan Designation: Single-Family Residential, Low Density

Present Zoning: R1-6, Single Family Residential minimum 6,000 sq. ft. lot

Existing Land Use: Residential

Agenda Sent To: Applicant and Owner as noted above.

Attachments: Plans, applicant letter of request.

PJ# 3202

BACKGROUND

In 1957, Tract Map No 1899 was recorded for the Manor Subdivision. In 1976, a Parcel Map was recorded for a two (2)-lot split

SITE DESCRIPTION

The project site is a .38-acre rectangular parcel located north of Rudyard Drive, in between North Abbott Avenue and Barker Street. The project site is bounded by Rudyard Drive to the south, a church and preschool to the west, and residential homes to the north and east. The southern portion of the parcel is currently developed with a single-family residence (387 Rudyard Drive). Adjacent land uses include single-family homes to the north and east, Spangler Elementary School to the south, public, quasi-public and residential uses to the west as depicted in the following aerial photo:



THE APPLICATION

Pursuant to Section 4 (Tentative Map) of the Milpitas Subdivision Ordinance, the applicant is requesting approval of a Minor Tentative Map for a two (2) lot subdivision on a .38 acre site zoned R1-6, Single Family Residential minimum 6,000 sq. ft. lot.

Project Description

The applicant submitted a Minor Tentative Map application to subdivide an existing .38-acre parcel for the purpose of creating two (2) new single-family lots. Provided in the table below is a summary of the proposed parcel sizes:

Table 1: Parcel Area

Areas	Square feet	Acres
Parcel 1	7574.45	.17
Parcel 2	7515.17	.18
Parcel 2 entrance	1515.65	.03

The proposed parcels range in size from 7515.17 square feet to 7574.15 square feet, with minimum lot widths exceeding 60 feet.

ISSUES

Site Layout: The proposed subdivision would create a flag lot condition for Parcel #2. A 15' wide and approximately 101' long driveway entrance accessed from Rudyard Drive provides the

main ingress and egress for Parcel #2. There are two concerns that relates to the flag lot configuration. The first concern is that the proposed flag lot would be inharmonious with the layout of the grid pattern for the neighboring tract homes. However, the Subdivision Ordinance does not prohibit flag lot. As proposed, the two (2) lot subdivision complies with Section 7.05 of the Milpitas Subdivision Ordinance which requires lots to conform to the development standards and setback requires for Zoning district, side lines of all lots are at right angles to streets, parcels are not divided by a city boundary line, and have permanent vehicular access. Although the proposed site layout would be inconsistent with the surrounding tract lots, staff rations that the proposed layout would not create any detrimental impacts on privacy. The second concern is limited fire access to Parcel #2. As a result **staff recommends** an automatic fire protection system (sprinklers) per NFPA 13D shall be provided for the future residence or in lieu of an automatic fire protection system, a private hydrant may be installed at the rear lot.

Grading: The proposed lots are located in a flood zone area that requires elevated the structure for floodproofing purposes. As a result, the Building Pad elevations will be higher than the elevation of adjacent grade. Staff is uncertain on how the grading and drainage system will be designed so that neighboring properties are not affected and that the drainage will have the appropriate flow to drainage facilities. As a result, staff requested a preliminary drainage and grading plan to clarify the grading and drainage. **Staff recommends** a condition of approval that shall require a grading plan and drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to building permit issuance.

PG & E Easement: The project site currently has a 10' PG&E utility easement on the rear portion of the lot. The utility easement is used to maintain adequate wire clearance. PG&E has responded to staff's outside agency review request and indicated no additional easements will be required with this project.

Other Improvements: The area was developed in 1957 prior to the requirement for undergrounding of utilities. Along the east property line, there are four utility poles with electric service lines that serve adjacent properties. In accordance with Milpitas Municipal Code XI-1-7.02-2, **staff recommends** a condition of approval that shall require the applicant to underground all existing wires between the utility poles number 2 to 4, and removing pole number 3 to comply with current standards. In addition, the overhead electric service lines serving adjacent properties and facilities from pole number 3, and all proposed utilities within the subdivision shall also be undergrounded.

Conformance with the General Plan

The Single Family-Low Density General Plan designation allows a residential density of between 3 and 5 units per gross acre) the project site is approximately .38 acres and proposed 2 lots with a density of 5.26 dwelling units per acre. The General Plan rounds to the nearest whole number so the project would be considered to be 5 dwelling units per acre, therefore consistent with the General Plan.

Conformance with the Zoning Ordinance

The proposed parcels and building footprints would conform to the Single-Family Residence (R1-6) zoning district development standards, as shown on Table 1.

Table 1:
Conformance with Single-Family Residential (R1-6)
Development Standards

Lot Size, Width and Setbacks	Parcel 1	Parcel 2
Lot size (min. 6,000 sq. ft.):	7574.45 sq.ft.	7515.17 sq.ft.
Lot Width (min. 60')	75'	185.65'
Setbacks:		
Front (min. 20')	20'	20'
Side (min. 6' adjacent to garage, total 13')	6'/7'	6'/7'
Rear (min. 25')	25'	25'
Driveway/Parking spaces (min. 10' x 20'; 2 spaces)	15' / 2	20' / 2
Conforms with minimum standards?	Yes	Yes

Conformance with the Subdivision Map Act and Subdivision Ordinance

The Subdivision Map Act defers the approval of minor tentative parcel map applications to local ordinances (Article 5, Section 66463). The City's Subdivision Ordinance requires design and improvement consistency with the General Plan. As previously mentioned, the proposed Tentative Parcel Map is in conformance with the General Plan.

Conformance with CEQA

The project is categorically exempt from further environmental review pursuant to Class 15, Section 15315 ("Minor Land Divisions) of the Environmental Quality Act (CEQA) guidelines. This section exempts such projects involving the division of property in urbanized area into four or fewer parcels when the division is in conformance with the General Plan and zoning. As discussed above, the proposed project is located in a developed, urbanized area and conforms to the General Plan and Zoning Ordinance.

RECOMMENDATION

Close the Public Hearing. Approve Minor Tentative Map No. MI2005-4 based on the findings and conditions of approval.

FINDINGS

General Plan

1. The proposed project is consistent with the Milpitas General Plan in that it is consistent with:

- Guiding Principles 2.a-G-3 and 2.a-I-10, which provide for a variety of housing types and densities that meet the needs of individuals and families, as well as foster community pride and growth through beautification of existing and future development;
- Implementation Policy 2.a-I-2 which promotes in-fill development in the incorporated city limits. The project is an infill project replacing existing residential structures, primarily surrounded by existing developed sites;
- It does not conflict with any existing policies, allows the development of new housing uses within this portion of the City, and will be in conformance with the underlying General Plan land use designations once approved by the City Council.

Zoning Ordinance

2. The proposed project, as conditioned, is consistent with the Milpitas Zoning Ordinance in that the proposed development is within the allowable density of the zoning district and conforms to the land use and development standards of the Single-Family Residential (R1-6) zoning district.
3. The layout of the site is compatible and aesthetically harmonious with adjacent and surrounding development because the project would be complementary to the adjacent existing residential development to the northwest, west, and south of the project site.

Subdivision Map Act

4. The proposed project is consistent with the State Subdivision Map Act and the Subdivision Ordinance in that the proposed subdivision, design, and improvements are consistent with the General Plan.
5. The site is physically suitable for the type of development proposed because the project site is relatively flat, currently developed with one (1) residential structures, and located adjacent to residential developed properties.
6. The site is physically suitable for the proposed density of development because the project is in conformance with the General Plan density requirements, and the Zoning Ordinance in terms of lot area, width, and yard requirements.
7. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage beyond what is already anticipated by the General Plan and Zoning Ordinance for the R1-6 Zone.
8. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because, as conditioned, all appropriate encroachment easements will be obtained prior to construction activities, and access to property will be from a city maintained public street.

California Environmental Quality Act

9. The project is exempt from further environmental review pursuant to Class 15, Section 15315 ("Minor Land Divisions) of the California Environmental Quality Act (CEQA) guidelines.

CONDITIONS OF APPROVAL

1. This approval is for Major Tentative Map No. MA2004-3, Zoning Map Amendment No. ZC2004-1, 'S' Zone Approval Amendment No. SA2005-16, and Environmental Impact Assessment No. EA2005-8 to create five (5) new parcels, rezone the property from Agriculture (A) to Single Family Residential (R1-6), and removal of 8 protected trees, as depicted on the Major Tentative Map, dated February 22, 2006, and as amended by these conditions of approval. (P)
2. The proposed project shall be conducted in compliance with all applicable federal, state, and local regulations. (P)
3. If, at the time of submittal for Parcel Map approval, there is a project job account balance due to the City for recovery of review fees, review of parcel map will not be initiated until the balance is paid in full. (P)
4. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)
5. Prior to parcel map recordation, in accordance with Milpitas Municipal Code XI-1-7.02-2, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more that do not have to be undergrounded, the developer shall underground all existing wires between the utility poles number 2 to 4, and removing pole number 3, as shown on the Engineering Services Exhibit TM, dated 3/1/06. The overhead electric service lines serving adjacent properties and facilities from pole number 3, and all proposed utilities within the subdivision shall also be undergrounded. (E)
6. Prior to parcel map recordation, the developer shall submit maps to PG & E for their review and comments. PG & E shall verify that the existing PUE in the back of the property is sufficient or additional easement for the Wire Clearance is required. If additional easement is required, developer shall dedicate the necessary easements prior (or concurrent with) parcel map recordation. (E)
7. Prior to parcel map recordation, the developer shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. (E)
8. The parcel map shall be recorded prior to issuance of any building permit. (E)
9. The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in Special Flood Hazard Zone AE, therefore, floodproofing is required. Floodproofing can be accomplished by elevating the structure. Per Chapter 15, Title XI of Milpitas Municipal Code(Ord. No. 209.4) the lowest floor elevation (finish floor) of each structure shall be at least one foot above the BFE and the pad elevation shall be at or above the BFE which is approximately at elevation 15 feet NGVD. The applicant's civil engineer shall complete and submit a FEMA Elevation Certificate to the City, certifying the "as built" lowest floor elevation. Forms are available at the City of Milpitas, Engineering Division. Additionally, applicant shall demonstrate that this development will not cause any significant increase in

flood levels during the occurrence of the base flood discharge. Any trailers, modular buildings, or pre-manufactured dwelling units located on this site for periods of time greater than one year, shall be adequately anchored to resist flotation, collapse and lateral movements per Floodplain Management Regulations. (E)

10. Prior to parcel map recordation, the developer shall obtain design approval and bond for all necessary public improvements including but not limited to undergrounding of overhead wires, slurry seal of the entire Rudyard street frontage, restriping, storm drain, sewer and water service connection. (E)
11. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to connection fees for sewer, water and storm, and plan check and inspection deposit. (E)
12. At the time of plan check submittal for building permit, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to building permit issuance. (E)
13. If the existing services (water, sewer and storm) are not adequately sized to serve this additional development, plans showing new services must be submitted and approved prior to building permit issuance. (E)
14. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)
15. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. (E)
16. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrub are permitted within City utility easements, where the easement is located within landscape areas. (E)
17. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)
18. The developer shall submit the following items with the building permit application and pay the related fees prior to building permit issuance:
 - A. Storm water connection fee of **\$1100**, water connection fee of **\$1910**, sewer connection fee of **\$1908** and wastewater treatment plant fee of **\$880**.
 - B. Water Service Agreement(s) for water meter(s) and detector check(s).
 - C. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s).(E)

19. It is the responsibility of the developer to obtain any necessary encroachment permits from affected agencies, including but not limited to, Pacific Gas and Electric, SBC, Comcast and City of Milpitas Engineering Division. Copies of approvals or permits from other agencies must be submitted to the City of Milpitas Engineering Division. 48 hrs prior to start of construction, the developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, for location of utilities. (E)
20. Make changes as noted on Engineering Services Exhibit "T"(dated 3/1/2006) and submit a Mylar of the revised tentative map to the Planning Division within three weeks of this tentative map approval. No application for the review of the parcel map or improvement plans will be accepted until this condition is satisfied. (E)
21. Due to limited fire apparatus access to rear lot, an automatic fire protection system (sprinklers) per NFPA 13D shall be provided for the future residence. California Fire Code Section 1001.9. (F)
22. In lieu of an automatic fire protection system, per comment No. 1 above, a private hydrant may be installed at the rear lot. The Fire Department reserves the right to designate the specific location of the hydrant. CFC Section 1001.9. If this option is not feasible, an automatic sprinkler system shall be installed. (F)
23. Fire access easements. No source of access from lands adjoining a property to be developed shall be considered unless there is obtained the irrevocable and unobstructed right to use same. CFC Section 902.2.1.2 amended by Milpitas Municipal Code V-300-2.01. Fire access easements shall be legally recorded. (F)
24. The required width of a fire apparatus access road shall not be obstructed in any manner, including parking of vehicles. The minimum required widths and clearances shall be maintained at all times. CFC Section 902.2.4.1. (F)
25. Grading of both lots shall be provided in such a way that site storm drainage from one lot shall not be directed to adjacent lot. (B)
26. Structures on each lot shall be provided with independent utility lines. Utility lines of one lot shall not cross or pass through adjacent lot. (B)

(P) – Planning Division
(E) – Engineering Division
(F) – Fire Department
(B) – Building Department

From: Hai Tran & Marsha Tran
To: City of Milpitas
Subject: 2-lot Subdivision – Letter of Explanation Regarding Proposal.
(387 Rudyard Drive, Milpitas, CA 95035)
Date: Dec. 12th, 2005

To Whom It May Concern:

This letter is to explain our purpose for the proposed 2-lot subdivision at 387 Rudyard Drive, Milpitas, CA 95035.

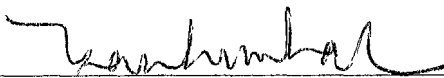
The subject property was purchased in 2001 as it had the potentiality for a 2-lot subdivision. We, the undersigned, did confirm this qualification with the City of Milpitas prior to our offer for the property.

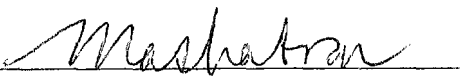
Recently, we were inspired by our children from their written essays for college submittals. In these essays, our children have their visions to become professionals in medical fields so that they will have better opportunities to contribute back to the community, especially to the unfortunate children.

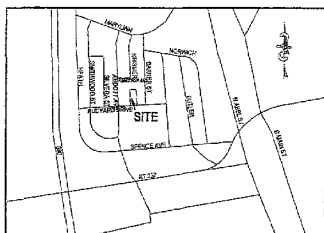
In an effort to support our children's to pursue their cherish dreams, we, the parents, have decided to submit this application to proceed the proposed 2-lot subdivision. We have planned to donate the use of the subdivided property to Donate For Children, a non-profit organization, and it is intended to be used as residence for a number of foster children.

We are also seeking your support to this project. This is one of our ways to contribute back to the community.

Sincerely,


Hai Tran


Marsha Tran



- NOTES:**
1. CONDITIONS & ELEVATIONS ARE LOCATED AND SHOWN BASED ON CITY OF MILPITAS UTILITY RECORDS. AREAS NOT ESTABLISHED BY TOWN, INC. CONSIDERED AS A 74" I.D. 10' B.O.W. WELL.
 2. A. INDICATES TEMPORARY BENCH MARK SET AS SHOWN.
 3. BOUNDARY INFO TAKEN FROM RECORD MAPS AND TITLE INFORMATION.
 4. STREET TYPES ARE APPROXIMATE AND ARE TO BE CONFIRMED BY OTHERS.
 5. "PLAN" INDICATES THE LOCATION OF DRAINAGE SPOT.
 6. OVERSEAS: "PLAN" TRAIL & NORTH SHOWN.
 7. CONTOUR INTERVAL = 1'.
 8. MAP REFERENCE: BOOK 385 OF MAPS AT PAGE 35.
 9. INDICATES DRAINAGE DIRECTION OF FLOW.
 10. INDICATES PROPOSED SPOT GRADE.
 11. INDICATES PROPOSED SPOT GRADE.
 12. INDICATES PROPOSED SPOT GRADE.
 13. INDICATES PROPOSED SPOT GRADE.
 14. LOT AREA: PARCELS 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 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1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 1346, 1347, 1348, 1349, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 1566, 1567, 1568, 1569, 1570, 1571, 1572, 1573, 1574, 1575, 1576, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1616, 1617, 1618, 1619, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640, 1641, 1642, 1643, 1644, 1645, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1663, 1664, 1665, 1666, 1667, 1668, 1669, 1670, 1671, 1672, 1673, 1674, 1675, 1676, 1677, 1678, 1679, 1680, 1681, 1682, 1683, 1684, 1685, 1686, 1687, 1688, 1689, 1690, 1691, 1692, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713, 1714, 1715, 1716, 1717, 1718, 1719, 1720, 1721, 1722, 1723, 1724, 1725, 1726, 1727, 1728, 1729, 1730, 1731, 1732, 1733, 1734, 1735, 1736, 1737, 1738, 1739, 1740, 1741, 1742, 1743, 1744, 1745, 1746, 1747, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1755, 1756, 1757, 1758, 1759, 1760, 1761, 1762, 1763, 1764, 1765, 1766, 1767, 1768, 1769, 1770, 1771, 1772, 1773, 1774, 1775, 1776, 1777, 1778, 1779, 1780, 1781, 1782, 1783, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1791, 1792, 1793, 1794, 1795, 1796, 1797, 1798, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2